UNITED STATES PATENT AND TRADEMARK OFFICE

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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

PTOL-90A (Rev. 04/07)

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE *3* MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *22 October 2003*.

2a)☐ This action is **FINAL**.   2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☐ Claim(s) *1-39* is/are pending in the application.

    4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-39* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a)☐ All   b)☐ Some * c)☐ None of:

      1.☐ Certified copies of the priority documents have been received.

      2.☐ Certified copies of the priority documents have been received in Application No. _____.

      3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1)☒ Notice of References Cited (PTO-892)

2)☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3)☒ Information Disclosure Statement(s) (PTO/SB/08)
    Paper No(s)/Mail Date *10/24/2007*.

4)☐ Interview Summary (PTO-413)
    Paper No(s)/Mail Date. _____.

5)☐ Notice of Informal Patent Application

6)☐ Other: _____.

DETAILED ACTION

Double Patenting

The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees.   A nonstatutory obviousness-type double patenting rejection is appropriate where the conflicting claims are not identical, but at least one examined application claim is not patentably distinct from the reference claim(s) because the examined application claim is either anticipated by, or would have been obvious over, the reference claim(s). See, e.g., *In re Berg*, 140 F.3d 1428, 46 USPQ2d 1226 (Fed. Cir. 1998); *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) or 1.321(d) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent either is shown to be commonly owned with this application, or claims an invention made as a result of activities undertaken within the scope of a joint research agreement.

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

Claims 1-39 are rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1-39 of copending Application No. 10/691,227. Although the conflicting claims are not identical, they are not patentably distinct from each other because '227 application (investment underlying one or more options for two or more intervals) in claims 1-39 and teach all the elements in claims 1-39 in the instant application (currency pairs for two or more time intervals).

This is a provisional double patenting rejection since the conflicting claims have not yet been patented.

As per claims 1 and 25 of instant application, claims 1 and 25 of '227 application teaches obtaining market information for two or more time intervals, calculating an opening and closing value trend using a market trend indicator and the opening and closing values and displaying a visual indicator comparing the opening value trend to the closing value trend.

As per claim 39 of instant application, claims 39 of '227 application teaches apparatus for determining and displaying trading trends comprising a computer communicably connected to a market information source; a display communicably connected to the computer and obtaining market information for two or more time intervals, calculating an opening and closing value trend using a market trend indicator and the opening and closing values and displaying a visual indicator comparing the opening value trend to the closing value trend

Claim Rejections - 35 USC § 103

1.   The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

2.   Claim1-13, 18-30 and 34-39 are rejected under 35 U.S.C. 103(a) as being unpatentable over Williams, U.S Pub No. 2002/0055899 (reference A in attached PTO-892) in view of Babcock (reference U in attached PTO-892) further in view of Bay, Jr., U.S. Patent No. 5,347,452 (reference B in attached PTO-892).

3.   As per claim 1, Williams teaches a method for determining and displaying trading trends comprising the steps of:

obtaining market information for one or more currency pairs for two or more time intervals (see paragraph [0017]; where market information of virtually any form of security is received from NASDAQ is displayed in the Display System (10));

Williams <u>does not teach a visual indicator comparing the opening value trend to</u> <u>the closing value trend for the one or more currency pairs</u>.

Bay, Jr. teaches a visual indicator comparing the opening value trend to the closing value trend for the one or more currency pairs (Bay, Jr., Fig. 2, column 4, lines 26-35; Examiner notes graph display for opening and closing value trend would be similar irrespective of types of securities).

Therefore, it would be prima facie obvious to one of ordinary skill in the art at the time the invention was made to include a visual indicator comparing the opening value trend to the closing value trend for the one or more currency pairs of Williams because Bay, Jr., teaches including above feature would enable to correlate information with historical data for identifying abnormal variations (Bay, Jr., column 1, lines 29-32).

Williams <u>does not teach calculating an opening and closing value trend using a</u> <u>market trend indicator and the opening and closing values for the one or more currency</u> <u>pairs</u>.

Babcock teaches calculating an opening and closing value trend using a market trend indicator and the opening and closing values for the one or more currency pairs (see page 1, paragraph 1-4; where trend value is calculated using trend filter such as moving average).

Therefore, it would be prima facie obvious to one of ordinary skill in the art at the time the invention was made to include calculating an opening and closing value trend using a market trend indicator and the opening and closing values for the one or more currency pairs of Williams because Babcock teaches including above feature would

enable to exploit the trend component of market price action (Babcock, page 1, paragraph 1, lines 1-2).

4.   As per claim 2, Williams in view of Babcock further in view of Bay, Jr. teaches claim 1 as described above. Williams further teaches the method wherein

the opening value is an opening price and the closing value is a closing price

(see paragraphs [0013-0015].

5.   As per claim 3, Williams in view of Babcock further in view of Bay, Jr. teaches claim1 as described above. Williams further teaches the method wherein

the opening value is an opening trading volume and the closing value is a closing

volume.

6.   As per claims 4-7, Williams in view of Babcock further in view of Bay, Jr. teaches claim 1 as described above. Williams further teaches the method wherein

the visual indicator is a first color whenever the closing value trend is greater

than the opening value trend; the first color is green; the visual indicator is a second

color whenever the closing value trend is lower than the opening value trend; and the

second color is red (see paragraph [0026]; where user specify color and its changes

according to activity occurring relative to a specific stock).

7.   As per claim 8, Williams in view of Babcock further in view of Bay, Jr. teaches claim 1 as described above. Williams further teaches the method wherein

the visual indicator displays the time interval (see paragraph [0015]).

8.   As per claim 9-10, Williams in view of Babcock further in view of Bay, Jr. teaches claim1 as described above.

Williams <u>does not teach the step of displaying the opening value trend as a first</u>

<u>line and the closing value trend as a second line in a graph; and the step of displaying a</u>

<u>list of information about a point selected on either the first line or the second line</u>.

Bay, Jr. teaches the step of displaying the opening value trend as a first line and

the closing value trend as a second line in a graph; and the step of displaying a list of

information about a point selected on either the first line or the second line (Bay, Jr., Fig.

2, item 26; column 4, lines 27-35; column 6, lines 20-25).

Therefore, it would be prima facie obvious to one of ordinary skill in the art at the

time the invention was made to include the step of displaying the opening value trend as

a first line and the closing value trend as a second line in a graph; and the step of

displaying a list of information about a point selected on either the first line or the

second line of Williams because Bay, Jr., teaches including above feature would enable

traders to anticipate price trend from comparison of present trading volume against

historical trading during same time intervals (Bay, Jr., column 6, lines 22-25).

9.   As per claims 11, Williams in view of Babcock further in view of Bay, Jr. teaches

claim 1 as described above.

Williams <u>does not teach the method wherein the market trend indicator</u>

<u>comprises one or more regression algorithms selected from: stochastics, relative</u>

<u>strength, directional 3 movement, commodity channel, simple average, exponential</u>

<u>average weighted average, 4 MACD (simple), MACD (exponential), momentum/ROC,</u>

<u>midrange, William's %R, 5 parabolic stop, volatility stop, trailing stop, high low stop,</u>

<u>Bollinger Bands, Keltner Channel, 6 uniform channel, regression channel, swing lines,</u>

cycle forecast, on balance volume, overlay 7 chart, point & figure, moving average,

moving linear regression, upper envelope, lower 8 envelope, %K, %D, %D slow, %D

averaged, %R, RSI, momentum, acceleration, moving 9 average oscillator, moving

average momentum, moving average convergence-divergence 10 oscillator, moving

average convergence-divergence, MACD signal line, commodity channel 11 index, rate

of change in prices, on balance volume variance, standard deviation, volatility 12 ratio,

volatility, skew, kurtosis, Williams Accumulated Distribution, Arm's Ease of 13

Movement, plus directional indicator, minus directional indicator, directional movement

and 14 average directional movement.

Babcock teaches a method identifying trend using trend filter such as a method

of moving average to look at recent price action and determines whether the trend is up,

down or neutral (Babcock, page 1, paragraph 1).

Therefore, it would be prima facie obvious to one of ordinary skill in the art at the

time the invention was made to include features described above of Williams because

Babcock teaches including those feature would enable traders to exploit the trend

component of market price action (Babcock, page 1, paragraph 1, lines 1-2).

10.   As per claim 12, Williams in view of Babcock further in view of Bay, Jr. teaches

claim 1 as described above. Williams further teaches the method wherein

the opening value trend is calculated without using the opening value from the

most recent time interval (see column [0015]; where trend is projected based on

historical data).

11.   As per claim 13, Williams in view of Babcock further in view of Bay, Jr. teaches

claim 1 as described above. Williams further teaches the method wherein

       selecting a market information source (see paragraph [0037]; where file server

selects data from NASDAQ Level1 and Level 2 data feed); and

       communicably connecting to the market information source (see paragraph

[0037]; where display system is connected to file server supplying market information

from NASDAQ data feed).

12.   As per claim 18-19, Williams in view of Babcock further in view of Bay, Jr.

teaches claim 1 as described above. Williams further teaches the method wherein

       the step of selecting the time interval; and the time interval is a preset time based

on a user profile (see paragraph [0015]).

13.   As per claims 20, Williams in view of Babcock further in view of Bay, Jr. teaches

claim 1 as described above. Williams further teaches the method comprising

       the step of repeating the steps of obtaining the market information, calculating

the opening value trend and the closing value trend, and displaying the visual indicator

for a set of different time intervals (see paragraph [0015).

14.   As per claim 21, Williams in view of Babcock further in view of Bay, Jr. teaches

claim 1 as described above. Williams further teaches the method wherein

       the set of different time intervals comprises five minutes, ten minutes, fifteen

minutes and thirty minutes (see paragraph [0015]).

15.   As per claim 22, Williams in view of Babcock further in view of Bay, Jr. teaches

claim 1 as described above. Williams further teaches the method comprising

the step of repeating the steps of obtaining the market information, calculating the opening value trend and the closing value trend, and displaying the visual indicator for two or more currency pairs (Examiner notes steps need to be repeated for each new transactions).

16.   As per claim 23, Williams in view of Babcock further in view of Bay, Jr. teaches claim 1 as described above. Williams further teaches the method wherein

the step of updating the opening values, the closing values, the opening value trend, the closing value trend and the visual indicator (see paragraph [0007]; where financial data received is in real-time).

17.   As per claim 24, Williams in view of Babcock further in view of Bay, Jr. teaches claim 1 as described above. Williams further teaches the method wherein

the step of signaling a user whenever the visual indicator changes (see paragraph [0025]; where color change is indicated to user for significant activity relative to a particular stock).

18.   As per claim 25, Williams in view of Babcock further in view of Bay, Jr., teach claim 1 as described above.

Williams teach a computer program embodied in a computer readable medium for determining and displaying trading trends comprising a code segment for obtaining market information for one or more currency pairs for two or more time intervals (see paragraph [0037-0039];

Babcock teaches a code segment for calculating an opening value trend using a market trend indicator and the opening values for the one or more currency pairs; and a code segment for calculating a closing value trend using the market trend indicator and the closing values for the one or more currency pairs (see page 1, paragraph 7)

Bay, Jr., teaches a code segment for displaying a visual indicator comparing the opening value trend to the closing value trend for the one or more currency pairs (see Figs. 3-5, column 5, lines 1-11).

19.   As per claim 26-27, Williams in view of Babcock further in view of Bay, Jr., teaches claim 25 as described above. Claim 26-27 is rejected under same rational as claim 9-10 described above.

20.   As per claim 28, Williams in view of Babcock further in view of Bay, Jr., teaches claim 25 as described above. Claim 28 is rejected under same rational as 11 described above.

21.   As per claim 29, Williams in view of Babcock further in view of Bay, Jr., teaches claim 25 as described above. Claim 29 is rejected under same rational as 12 described above.

22.   As per claim 34, Williams in view of Babcock further in view of Bay, Jr., teaches claim 25 as described above. Claim 34 is rejected under same rational as 18 described above.

23.   As per claim 35, Williams in view of Babcock further in view of Bay, Jr., teaches claim 25 as described above. Claim 35 is rejected under same rational as 20 described above.

24.   As per claim 36, Williams in view of Babcock further in view of Bay, Jr., teaches claim 25 as described above. Claim 36 is rejected under same rational as 22 described above.

25.   As per claim 37, Williams in view of Babcock further in view of Bay, Jr., teaches claim 25 as described above. Claim 37 is rejected under same rational as 23 described above.

26.   As per claim 38, Williams in view of Babcock further in view of Bay, Jr., teaches claim 25 as described above. Claim 38 is rejected under same rational as 24 described above.

27.   As per claim 39, Williams teaches an apparatus for determining and displaying trading trends comprising:

        a computer communicably connected to a market information source (see paragraph [0037]; where file server selects data from NASDAQ Level1 and Level 2 data feed);

        a display communicably connected to the computer (see paragraph [0037]; where display system is connected to file server supplying market information from NASDAQ data feed); and

        the computer obtaining market information for one or more currency pairs for two or more time intervals from the market information source (see paragraph [0017]; where market information of virtually any form of security is received from NASDAQ is displayed in the Display System (10)),

Williams does not teach <u>a visual indicator comparing the opening value trend to</u> <u>the closing value trend for the investment on the display</u>.

Bay, Jr. teaches a visual indicator comparing the opening value trend to the closing value trend for the investment on the display (Bay, Jr., Fig. 2, column 4, lines 26-35; Examiner notes graph display for opening and closing value trend would be similar irrespective of types of securities).

Therefore, it would be prima facie obvious to one of ordinary skill in the art at the time the invention was made to include a visual indicator comparing the opening value trend to the closing value trend for the investment on the display of Williams because Bay, Jr., teaches including above feature would enable to correlate information with historical data for identifying abnormal variations (Bay, Jr., column 1, lines 29-32).

Williams <u>does not teach calculating an opening and closing value trend using a</u> <u>market trend indicator and the opening and closing values for the two or more currency</u> <u>pairs</u>.

Babcock teaches calculating an opening and closing value trend using a market trend indicator and the opening and closing values for the two or more currency pairs (see page 1, paragraph 1-4; where trend value is calculated using trend filter such as moving average).

Therefore, it would be prima facie obvious to two of ordinary skill in the art at the time the invention was made to include calculating an opening and closing value trend using a market trend indicator and the opening and closing values for the one or more currency pairs of Williams because Babcock teaches including above feature would

enable to exploit the trend component of market price action (Babcock, page 1, paragraph 1, lines 1-2).

28.   Claims 14-17 and 31-33 are rejected under 35 U.S.C. 103(a) as being unpatentable over Williams, U.S Pub No. 2002/0055899 (reference A in attached PTO-892) in view of Babcock (reference U in attached PTO-892) further in view of Bay, Jr., U.S. Patent No. 5,347,452 (reference B in attached PTO-892) and further in view of Loh et al., U.S. pub No. 2002/0161692 (reference C in PTO-892).

29.   As per claim 14-17, Williams in view of Babcock further in view of Bay, Jr., teaches claim 1 as described above.

Williams does not teach the step of executing a trade involving one of the currency pairs; the step of simulating an execution of a trade involving one of the currency pairs; the step of calculating a potential tax liability for an execution of a trade involving one of the currency pairs; and the step of searching for one or more investment trading opportunities based on one or more search criteria.

Loh et al. teach the step of executing a trade involving one of the currency pairs; the step of simulating an execution of a trade involving one of the currency pairs, the step of calculating a potential tax liability for an execution of a trade involving one of the currency pairs, and the step of searching for one or more investment trading opportunities based on one or more search criteria (see Fig. 6; step 122 and 124; Fig. 6A, steps 154 and 158; Fig. 7, step 172 and 173 and Fig. 13).

Therefore, it would be prima facie obvious to two of ordinary skill in the art at the time the invention was made to include the step of executing a trade involving one of the currency pairs; the step of simulating an execution of a trade involving one of the currency pairs, the step of calculating a potential tax liability for an execution of a trade involving one of the currency pairs, and the step of searching for one or more investment trading opportunities based on one or more search criteria of Williams because Loh et al. teach including above feature would enable customer to place an order on the currency pair whereby order is matched against the posted rates, a match resulting in a trade, and a non-match resulting in a posting of the order (Loh et al., paragraph [0017]).

Conclusion

30.   The prior art made of record and not relied upon is considered pertinent to applicant's disclosures. Applicant is required under 37 CFR 1.111(c) to consider references fully when responding to this action. The following are pertinent to current invention, though not relied upon:

B.C. et al. (U.S. Pub No. 2002/0069152) teach day trading system

Gilbert et al. (U.S. Pub No. 2002/0088495) teach system and method for linking bids and offers in a trading interface.

Glodjo et al. (U.S. Patent No. 7,130,789) teach global electronic trading system.

Greenwood (U.S. Pub No. 2002/0156722) teaches automated securities trading system.

Impink, Jr. (U.S. Patent No. 6,211,880) teaches Display apparatus.

Katayama (U.S. Patent No. 6,897,867) teach information comparison display apparatus using colors and a method thereof.

Kay et al. (U.S. Patent No. 6,882,985) teach marketplace system fees enhancing market share and participation.

Khemlani (U.S. Patent No. 6,772,146) teaches website for financial information.

Lozman (U.S. Patent No. 5,689,651) teaches system for processing and displaying financial information.

Picciolo (U.S. Patent No. 7,194,434) teaches method for predictive determination of financial investment performance).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Bijendra K. Shrestha whose telephone number is (571)270-1374. The examiner can normally be reached on 7:00AM-4:30 PM (Monday-Friday); 2nd Friday OFF.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Alexander Kalinowski can be reached on (571)272-6771. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR.

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you have questions on access to the Private PAIR system, contact the Electronic

Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a

USPTO Customer Service Representative or access to the automated information

system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Alexander Kalinowski/
Supervisory Patent Examiner, Art Unit 3691

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